

Title 14 Board of Forestry and Fire Protection

[Notice circulated June 25, 2004]

15-DAY NOTICE
OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS
AND PUBLIC HEARING

Transition Silviculture, 2004

PUBLIC HEARING

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44, the Board of Forestry and Fire Protection (Board) is providing notice of changes made to proposed regulations listed below which were the subject of a regulatory hearing on June 9, 2004. These changes are being proposed in response to comments received regarding the proposed changes to the Forest Practice Rules (FPRs). The Board will hold a public hearing to adopt final rule language. The public hearing is to be held 9:00 a.m. on Wednesday, July 14, 2004, at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. The Board is providing notice of changes made to proposed regulations affecting Title 14 of the California Code of Regulations (14 CCR) Sections:

Amend:

**14 CCR § 913.2(b)[933.2(b), 953.2(b)] Regeneration Methods Used in Unevenaged
Management; Transition**

**14 CCR § 913.11(c)(1)&(2) [933.11(c)(1)&(2), 953.11(c)(1)&(2)] Maximum Sustained
Production of High Quality Timber Products**

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the 15-Day Notice. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed action described in the 15-Day Notice to the Board. The written comment period ends at 5:00 PM, on Monday, July 12, 2004. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

At the June 9, 2004 hearing, the Board of Forestry and Fire Protection (Board) held a public hearing as provided for in public notice on adoption of regulations related to the transition silviculture method. During this hearing the Board received comments from the public both in writing and in testimony. The Board considered all written and oral comments before them at the hearing. After the hearing was closed the Board discussed the comments received and determined that they wished to consider adopting some of the proposed rule modification offered either in writing or orally at the hearing. The Board directed staff to provide those potential changes to final regulatory language to the public in a 15-day notice (GC § 11346.8(c)). The Board may adopt any one individual proposed change, a selected group of the proposed changes,

or all of the proposed changes. The means of identifying the proposed changes is stated later in this notice.

The revisions made to the originally proposed rules address several concerns brought forward by the public and California Department of Forestry and Fire Protection. Of the revisions made, some are related to general grammatical, clerical and consistency edits. They remove repetitive language and make clarifications to allow uniform and clear interpretation of the proposed rule subsections. These revisions are expected to improve efficient implementation and interpretation of rule, reducing confusion and improving compliance. No cost or environmental impacts to the regulated community or agencies involved result due to revisions.

Other changes were made to better specify locations and pre-harvest conditions under which the revised transition silviculture rules should be applied. A fundamental question raised at the June 9, 2004, hearing was the silvicultural soundness of applying the revised transition method to all forest types. Of particular concern was application to coast forest types, where redwood forest trees are present.

Summarized changes to the originally noticed rules and resultant affects by subsection follows:

Subsection § 913.2(b) [933.2(b), 953.2(b)] The changes to the proposed rule incorporate the original forest practice rule intention of permitting the transition method to be used on unbalanced or irregular stands. Concerns were raised that by deleting the irregular or unbalanced intent, landowners would be precluded from appropriately using the method. Language in the 15-Day Notice now permits either unbalance/irregular stands, or stands not containing sufficient seed trees to meet the seed tree pre-harvest condition requirements.

Subsection § 913.2(b)(1)[933.2(b)(1), 953.2(b)(1)]: The changes to the proposed rule were made to clarify that pre-harvest area determination of retention levels applies only to the seed trees evaluation..

Subsection § 913.2(b)(2) [933.2(b)(2), 953.2(b)(2)]: The changes to the proposed rule were made to provide support for validation of previous uses of the transition method..

Subsection § 913.2 (b) (3) [933.2(b) (3), 953.2(b)(3)] the changes to the proposed rule were made to limit the type of stands applicable for the transition method. The original 45 day notice rule removed restrictions in terms of pre-harvest stocking level applicable for transition. This was determined to possibly allow the harvest of relatively young vigorous stands, rather than applying more appropriate silviculture systems, such as commercial thinning. The edits made in the 15-Day rule language permit stands with a maximum basal area of up to 50 square feet greater than the selection method to be suitable for transition method. The 50 square feet of basal threshold was determined to be an appropriate level to balance inclusion of use while providing caution to miss application.

Subsection § 913.2(b)(4) & (5)[933.2(b)(4)&(5), 953.2(b)(4)&(5)] : Changes were made to clarify that the minimum basal area standards shall be met after every use of the transition method. This was included to improve enforceability of the rule in the field.

Subsection § 913.2(b)(6) [933.2(b)(6), 953.2(b)(6)] The changes to the proposed rule were made to address the issue that the transition method is not applicable to high site (good growing conditions) coast redwood forests. It was determined that fast growing redwood forests should have other silvicultural systems applied, as the species can rapidly grow into stand conditions suitable for unevenaged methods.

Subsection § 913.2(b)(8)[933.2(b)(8), 953.2(b)(8)]: The changes to the proposed rule were made to clarify that information must be provided at the time of any transition harvest about future expectations of stand development towards the selection regeneration method.

§ 913.11(c)(1)&(2)[933.11(c)(1)&(2), 953.11(c)(1)&(2)] **Maximum Sustained Production of High Quality Timber Products**

Subsection § 913.11(c)(1)& (2)[933.11(c)(1) &(2), 953.11(c)(1)& (2)]:)]: The changes to the proposed rule were made to provide consistency of referencing code citations.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone number (916) 653-5602.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

A copy of the express terms of the proposed regulation is available on request.

A copy of the express terms of the proposed regulation is also available on the Board of Forestry and Fire Protection web page:

http://www.fire.ca.gov/bof/board/board_proposed_rule_packages.html.

Additionally, all the information considered as the basis for this proposed regulation (i.e., rulemaking file) is available to the public at the Board's office listed above.

TEXT OF MODIFIED REGULATIONS

In order to clearly indicate those sections proposed for change in this 15-day notice, the text is presented in the following format:

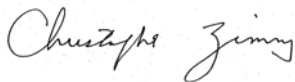
The Board has illustrated changes to the original text in the following manner:

- language originally proposed is UNDERLINED
- additions to the originally proposed language is DOUBLE-UNDERLINED
- deletions to the originally proposed language is ~~SINGLE STRIKEOUT~~

Notice of the 15 day comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.



Christopher Zimny
Regulations Coordinator
Board of Forestry and Fire Protection
File: notice 15 D transition 6_24_04